

REFERENCE TITLE: state employees; right to representation

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

# HB 2086

Introduced by  
Representatives Farley, Chabin

AN ACT

AMENDING TITLE 38, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 9; RELATING TO STATE EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Title 38, Arizona Revised Statutes, is amended by adding  
3 chapter 9, to read:

# CHAPTER 9

## STATE EMPLOYEES

**38-1201. State employees; right to representation; definitions**

8       A. IF AN EMPLOYER INTERVIEWS AN EMPLOYEE AND THE EMPLOYEE REASONABLY  
9       BELIEVES THAT THE INTERVIEW COULD RESULT IN DISCIPLINARY ACTION, THE EMPLOYEE  
10      MAY REQUEST TO HAVE A REPRESENTATIVE OF THE EMPLOYEE'S CHOICE PRESENT AT NO  
11      COST TO THE EMPLOYER DURING THE INTERVIEW. THE EMPLOYEE SHALL SELECT A  
12      REPRESENTATIVE WHO IS AVAILABLE ON REASONABLE NOTICE SO THAT THE INTERVIEW IS  
13      NOT UNREASONABLY DELAYED. THE REPRESENTATIVE SHALL PARTICIPATE IN THE  
14      INTERVIEW ONLY AS AN OBSERVER. UNLESS AGREED TO BY THE EMPLOYER, THE  
15      REPRESENTATIVE SHALL BE FROM THE SAME AGENCY OR A UNION REPRESENTATIVE AND  
16      SHALL NOT BE AN ATTORNEY, EXCEPT IF REQUESTED BY THE EMPLOYEE. THE EMPLOYER  
17      SHALL PERMIT THE EMPLOYEE TO TAKE REASONABLE BREAKS OF LIMITED DURATION  
18      DURING ANY INTERVIEW FOR TELEPHONIC OR IN PERSON CONSULTATION WITH OTHERS,  
19      INCLUDING AN ATTORNEY, WHO ARE IMMEDIATELY AVAILABLE. AN EMPLOYER SHALL NOT  
20      DISCIPLINE, RETALIATE AGAINST OR THREATEN TO RETALIATE AGAINST AN EMPLOYEE  
21      FOR REQUESTING THAT A REPRESENTATIVE OR AN ATTORNEY BE PRESENT OR FOR ACTING  
22      AS THE REPRESENTATIVE OF AN EMPLOYEE PURSUANT TO THIS SECTION.

23 B. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO AN INTERVIEW OF AN  
24 EMPLOYEE THAT IS:

25           1. IN THE NORMAL COURSE OF DUTY, COUNSELING OR INSTRUCTION OR AN  
26 INFORMAL VERBAL ADMONISHMENT BY, OR OTHER ROUTINE OR UNPLANNED CONTACT WITH,  
27 A SUPERVISOR.

28           2. PRELIMINARY QUESTIONING TO DETERMINE THE SCOPE OF THE ALLEGATIONS  
29 OR IF AN INVESTIGATION IS NECESSARY.

30           3. CONDUCTED IN THE COURSE OF A CRIMINAL INVESTIGATION.

31 C. FOR THE PURPOSES OF THIS SECTION:

32           1. "DISCIPLINARY ACTION" MEANS THE DISMISSAL, DEMOTION OR SUSPENSION  
33 OF AN EMPLOYEE THAT IS AUTHORIZED BY STATUTE AND THAT COULD CAUSE A LOSS OF  
34 PAY FOR THE EMPLOYEE.

35           2. "EMPLOYEE" MEANS AN INDIVIDUAL WHO IS EMPLOYED BY THIS STATE,  
36 EXCEPT A LAW ENFORCEMENT OFFICER OR PROBATION OFFICER, AS DEFINED IN SECTION  
37 38-1101, WHO IS EMPLOYED BY THIS STATE.

38-1202. Application as to prior agreements

39           THIS ARTICLE DOES NOT PREEMPT AGREEMENTS THAT SUPPLANT, REVISE OR  
40 OTHERWISE ALTER THIS ARTICLE, INCLUDING PREEXISTING AGREEMENTS BETWEEN THE  
41 EMPLOYER AND THE EMPLOYEE OR THE EMPLOYEE'S LAWFUL REPRESENTATIVE  
42 ASSOCIATION.